IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 7TH AUGUST 2006 / 16TH SRAVANA 1928

Bail Appl..No. 4612 of 2006

CMP.4243/2006 of J.M.F.C.-I,PATHANAMTHITTA
CRIME NO. 530/2006 OF PATHANAMTHITTA POLICE STATION

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PETITIONER/ACCUSED NO.1 IN CRIME NO.530/2006:

SURESH, S/O. BHASKARAN NAIR,
AGED 42 YEARS, RESIDING AT CHAITHANYA,
VAZHAMATTOM MURI, VALLAKODE VILLAGE,
PATHANAMTHITTA.

BY ADV. SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS
SRI.AJITH MURALI

RESPONDENTS: COMPLAINANT IN CRIME NO.530/2006:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/08/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 4612/2006

DATED THIS THE 7TH DAY OF AUGUST, 2006

O R D E R

The petitioner had surrendered before the Court below, as per the direction contained in B.A.No.3960/2006, and the petitioner remains in judicial custody, as remanded by the Judicial Magistrate of First Class-I, Pathanamthitta. The offence alleged against him are under Section 8(1) & 8(2) of the Abkari Act, as he was found in illegal possession of ten liters of illicit arrack. The petitioner is the first accused. The second accused was also found in possession of 2.5 liters of illicit arrack, on the same day.

2. When the application came up for consideration, the learned Public Prosecutor brought to my notice that the petitioner is also accused of another offence, under the Abkari Act. However, the counsel for the petitioner submitted that while in judicial custody, the jail authorities took the petitioner to P.H.C., Konni, and

the doctor certified as on 13.7.2006, he was suffering from viral hepatitis, L.B.A, and bronchitis fever from 3.7.2006. It is further certified that the treatment is continuing.

3. The learned counsel, relying on the above medical certificate, submitted that the petitioner is really suffering and therefore, he may be released. The learned Public Prosecutor submitted, after verification with the jail authorities, that he is not having any 'serious problem'.

4. In view of the medical certificate and other submissions made by the counsel, though the petitioner is not entitled for bail because of the operation of Section 41A of the Abkari Act, without the same being treated as a precedent, I grant bail and release the petitioner from jail, subject to the following conditions:-

> (a). The petitioner shall execute a bond for Rs.25,000/-, with two solvent sureties, each for the like sum, to the satisfaction of the Judicial Magistrate of First Class-I, Pathanamthitta.

(b). The petitioner shall report before the Investigating Officer, once in a week on every Thursday, between 10.00 a.m and 11.00 a.m., for a period of six months, starting from 10.8.2006.

The application is allowed as above.

J.M.JAMES
JUDGE

mrcs